IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No. 173 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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B.I.F.R. - Petitioner(s)

Versus

MANAGING DIRECTOR, SANDEEP TEXSPIN LTD. & 7 - Respondent(s)

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Appearance :
BOARD OPINION for Petitioner(s) : 1,
SERVED BY AFFIX.(N) for Respondent(s) : 1, 8 - Absent
None for Respondent(s) : 2,6 - 7.
NOTICE SERVED for Respondent(s) : 3 - Absent
MS BALA R THACKER for Respondent(s) : 4,
MR MITUL K SHELAT for Respondent(s) : 5,
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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 10/01/2006

ORAL JUDGMENT

1. The office report shows that the respondents nos. 1,2,6,7 and 8 were served by affixture, respondent no.3 was served. Nobody represents them.

2. Present matter was registered on strength of the Board Opinion dated 9.5.2003 recorded in Case No. 340 of 1999 in the matter of M/s. Sandeep Texpin Ltd.

3. From the Opinion of the Board, it appears that the respondent company was declared sick industrial company in the hearing held on 21.2.2000. Bank of India was appointed as Operating Agency under Section 17(3)of the

Sick Industrial Companies (Special Provisions) Act, 1985 to examine the viability of the company and submit its report. The company was directed to submit a fully tied up rehabilitation proposal to the Operating Agency within four weeks. From the Opinion, it further appears that the promoters were not serious in rehabilitating the company nor were they resourceful enough to mobilize the funds required for the purpose. The Board opined that there was no rehabilitation proposal with means of finance fully tied up for consideration of the Board. The Board also observed that the sick industrial company, namely, M/s. Sandeep Texpin Ltd., is not likely to make its net worth exceed its accumulated losses within reasonable time while meeting its financial obligations. The Board also observed that the company is not likely to become viable in future. After recording all this, the Board referred its opinion to the Court for passing appropriate orders. After receiving the matter, vide order dated 1.8.2003, the Court directed that notices be issued to the respondents nos. 1,3,4,5 and 8. The matter was thereafter taken up on 10.11.2003. Though respondents nos. 1,2,3,6,7 and 8 were served, but did not choose to appear, therefore, the Court admitted the

petition on 10.11.2003 and directed that notice of admission and final hearing of the petition be published in two newspapers. In accordance with the directions of this Court, notices have already been published. Affidavit along with paper clippings have already been submitted in June, 2005.

4. Even today, none appears to oppose the petition nor anybody has informed the Court that the Board Opinion is wrong or it has been challenged either before the appellate authority or before any Court competent to hear the matter.

5. The Board, in its opinion has already observed that the respondent company has become sick which cannot make its assets more than the accumulated losses and that the promoters are not serious in the matter, the Opinion being final and having not been challenged, I accept the same.

6. At this stage, learned counsel for the respondent no.5 submits that on earlier occasion, they had filed Company Application No. 202 of 2004, requesting the Court that they be allowed to stay outside the winding up proceedings for purposes of enforcement of its charge as secured creditor. He submits that the said Company Application No. 202 of 2004 was disposed of on

31.8.2004 with liberty in their favour, therefore, respondent no.5 be allowed to stay outside in light of the order dated 31.8.2004. Liberty is granted.

7. The petition is allowed. The company is directed to be wound up. The Official Liquidator associated with the Court is appointed as Official Liquidator for the company. Within six weeks from today, he shall take possession of the properties (movable and immovable), bank accounts and the account books etc. of the company and shall submit his report within four weeks thereafter.

[R.S. GARG, J.]

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